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FUJITSU LIMITED, and
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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF GUAM

NANYA TECHNOLOGY CORP. and
NANYA TECHNOLOGY CORP. U.S.A.,

Plaintiff,

vs.

FUJITSU LIMITED, FUJITSU
MICROELECTRONICS AMERICA, INC.,

Defendants.

CIVIL CASE NO. 06-CV-00025

**DEFENDANT'S OPPOSITION TO
PLAINTIFFS' MOTION TO COMPEL
DOCUMENTS**

FILED
DISTRICT COURT OF GUAM
APR 20 2007 *
MARY L.M. MORAN
CLERK OF COURT

1 Defendant Fujitsu Microelectronics America, Inc., ("FMA") hereby opposes
2 Plaintiffs' Motion to Compel Documents Responsive to Plaintiffs' Jurisdictional Requests for
3 Production to Fujitsu Microelectronics America, Inc. ("Motion").

4 **I. INTRODUCTION**

5 Plaintiffs Nanya Technology Corp. and Nanya Technology Corp. U.S.A.
6 (collectively "Nanya") have utterly and repeatedly failed to follow the Local Rules of this Court
7 concerning discovery motions. In particular, and as explained below, Nanya has failed to
8 properly meet and confer with FMA to narrow the issues and prepare the required stipulation
9 specifying the particular discovery requests that are disputed and the parties' respective positions
10 on each request. Instead, any "meet and confer" was nothing more than a series of complaints
11 about FMA's document production without reference to specific requests, as is the Motion itself.
12 Although Nanya gives some examples of alleged document production deficiencies in the
13 Motion, these examples were *never discussed with FMA*. Further, each example is easily
14 explained below and none form a proper basis for a motion to compel.

15 This Motion is the *third* motion to compel filed against FMA and none of the
16 motions have complied with the local rules. In fact, the meet and confer concerning the first
17 motion to compel did not even happen until after the motion was filed. Nanya did not submit the
18 required stipulations with either of its previous motions to compel. Nanya's indefensible
19 disregard for the Local Rules is reason enough to deny this Motion.

20 However, as explained below, this Motion should also be denied because FMA
21 has, in fact, completely satisfied its obligations under Nanya's discovery requests. Nanya has
22 made numerous incorrect assumptions about the documents that it thinks FMA has, and then
23 bases its complaints in the Motion on FMA's failure to produce these phantom documents. FMA
24 has expended enormous resources collecting and producing documents. Further, it has offered to
25 continue collecting and producing documents in response to Nanya's very recent and different
26 document demands. FMA has been more than cooperative.

1 **II. FACTUAL BACKGROUND**

2 Nanya filed its First Request for the Production of Documents ("First Set") on
3 December 14, 2006. (*See* Nanya's Motion, Exh. A). These requests were not directed to specific
4 accused devices, but rather more generally referred to "dynamic memory chips" as being the
5 relevant products. (*Id.* at 2.) FMA served its written objections and responses to the First Set by
6 first class mail on January 16, 2007. (*See* Dkt. No. 130, Exh. A.) On January 17, 2007, before
7 even receiving FMA responses to the First Set, Nanya filed a motion to compel ("First Motion").
8 (*See* Dkt. No. 113.) The First Motion did not comply with the Local Rules because, among other
9 things, it did not include the stipulation required by Local Rule 37.1.

10 On February 6, 2007 the parties finally had a meet and confer to discuss the First
11 Set of document requests, and came to an agreement the next day. (*See* Dkt. No. 160, at 2, and
12 Exhs. A-C thereto.) Nanya then tried to redefine a term in its First Set and FMA declined to let
13 them add this after-the-fact definition. (*See id.* and Exhs. D and E thereto.) Nanya then filed
14 another motion to compel ("Second Motion") on the same First Set of discovery requests. (*See*
15 Dkt. No. 132.) The Second Motion similarly did not comply with Local Rule 37.1 as it failed to
16 include the required stipulation. Nanya later backed away from its demand for the new definition
17 and the parties entered a stipulation on February 20, 2007 setting a deadline of April 2, 2007 for
18 FMA to provide responsive documents. (*See* Dkt. No. 148.) This Court denied the First Motion
19 and the Second Motion as moot. (*See* Dkt. No. 172.)

20 On February 9, 2007 Nanya served a Second Set of Jurisdictional Requests for
21 Production ("Second Set") on FMA. (*See* Motion, Exh. A-2). The Second Set listed 67 specific
22 part numbers included within the definition of Accused Devices. (*Id.* at 4.) FMA served written
23 objections and responses to the Second Set on March 14, 2007, objecting on several grounds,
24 including that the requests were overly broad and burdensome. (*See* Exh. A hereto.) The parties
25 had a meet and confer on the Second Set on March 21, 2007 wherein Nanya could not defend the
26 broad scope of most of the requests in the Second Set. As a result, Nanya agreed to narrow the
27 scope of the Second Set and Vance Freeman, Nanya's counsel, sent a letter to FMA's counsel on
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1 March 22, 2007 setting forth the categories of documents that represented the agreement as to
2 what documents FMA was to produce in response to the Second Set. (“Freeman Letter”; Exh. B
3 hereto; *see also* Motion at 6-8, acknowledging this agreement.)

4 FMA conducted a reasonable search for documents responsive to the First Set and
5 produced all of those documents by April 2, 2007 as agreed. Further, FMA searched for and
6 produced most of the documents responsive to the Freeman Letter by April 2, 2007. The
7 remaining documents responsive to the Freeman Letter were produced by April 10, 2007, in
8 advance of the April 12, 2007 deposition of Michael Moore, FMA’s General Counsel. Thus,
9 FMA has fully complied with both the First Set and the Second Set.

10 Following the deposition of Michael Moore, counsel for Nanya complained about
11 allegedly “missing” documents from FMA’s production concerning the Second Set. At several
12 points in the discussion counsel for FMA asked that specific categories in the Freeman Letter be
13 identified where documents had allegedly not been produced. Nanya’s counsel did not refer to
14 any specific category in the Freeman Letter. Counsel for FMA stated that even though FMA
15 believed it had fully satisfied the document requests, if there were additional documents that
16 Nanya felt it needed, FMA would be willing to conduct reasonable searches for such additional
17 documents and would produce them. Nanya’s counsel stated that it would send a letter the next
18 day detailing the additional documents sought.

19 On April 13, 2007 Nanya sent a letter to FMA’s counsel alleging again in vague
20 terms that “Nanya does not believe that its jurisdictional discovery requests have been sufficiently
21 satisfied.” (“Pascual Letter”; Exh. C hereto.) The Pascual Letter again did not identify a single
22 category in the Freeman Letter where documents allegedly had not been produced. However, the
23 Pascual Letter did include 5 new categories of documents sought by Nanya. (*Id* at 1-2.) A simple
24 comparison between the Freeman Letter (Exh. B) and the Pascual Letter (Exh. C) makes it clear
25 that the Pascual letter substantially broadened the scope of documents being sought from FMA.
26 For example, the Pascual Letter demands “communications” and “marketing” documents related
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1 to the accused devices, where such items were clearly not within the categories in the Freeman
2 Letter.

3 The Pascual Letter also demanded “an immediate unqualified response” to the new
4 broader document requests. (Exh. C at 1.) In fact, the letter demanded an answer by 6:00 p.m.
5 the *same day*, even though Nanya’s counsel knew that FMA’s counsel primarily responsible for
6 supervising document production issues, *i.e.*, Michael Murray, would be traveling all day on
7 April 13th returning to New York after the Moore deposition. (*Id.*) Nanya was informed that a
8 response the same day was not feasible due to Mr. Murray’s travel schedule. (*See* Exh. D hereto.)
9 Nanya responded in an e-mail to Mr. Murray stating that “we need to hear from you this weekend
10 or by Monday Guam time.” (Exh. E hereto.) Thus, a response to the Pascual Letter was
11 demanded by Sunday night in New York.

12 On Sunday evening, after consulting with FMA representatives as best they could
13 given the short amount of time Nanya had provided to consider the Pascual letter, FMA’s counsel
14 responded with an e-mail disagreeing with Nanya’s assertions concerning FMA’s alleged failure
15 to fully respond to the document requests. (*See* Exh. F hereto.) However, FMA’s counsel stated
16 that “[i]n spite of the shifting nature of Nanya’s document demands, FMA remains willing to
17 conduct additional searches to provide the maximum reasonable discovery in advance of the
18 hearing.” (*Id.*) FMA’s counsel further advised Nanya’s counsel that, while the new discovery
19 requests were “clearly overbroad . . . we are now conducting a search for responsive documents.”
20 (*Id.*) Nanya was further informed that “[t]his search will continue this week and we should be
21 able to begin production on a rolling basis before the end of the week.” (*Id.*) Apparently because
22 this was not an “immediate and unqualified response” as demanded in the Pascual Letter, Nanya
23 filed the present motion.

24 In spite of the present motion, FMA has continued to search for documents
25 responsive to the new requests contained in the Pascual Letter. A large number of additional
26 document are being produced to Nanya this week. Documents continue to be gathered and
27 additional information will be produced.
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1 **III. NANYA HAS FAILED TO FOLLOW THE LOCAL RULES AND, AS A RESULT,**
 2 **ITS MOTION DOES NOT PROPERLY DEFINE THE ISSUES**

3 Nanya's Motion is subject to automatic denial under Local Rule 37.1, which
 4 requires:

5 (a) Prior to the filing of any motion relating to a discovery dispute, counsel for the parties
 6 shall meet in person in a good faith effort to eliminate the necessity for hearing the motion
 7 or to eliminate as many of the disputes as possible. It shall be the responsibility of counsel
 8 for the moving party to arrange for the conference.

9 (b) If counsel are unable to settle their differences, **they shall formulate a written**
 10 **stipulation specifying separately and with particularity each issue that remains to be**
 11 **determined at the hearing and the contentions and points and authorities of each**
 12 **party.** The stipulation shall not refer the Court to other documents in the file.

13 By way of example only, if the sufficiency of an answer to an interrogatory is in issue, the
 14 stipulation shall contain verbatim, both the interrogatory and the allegedly insufficient
 15 answer, followed by each party's contentions, separately stated. The stipulation shall be
 16 served and filed with the notice of motion. **In the absence of such stipulation, or a**
 17 **declaration of counsel of non-cooperation by the opposing party, the Court will not**
 18 **consider any discovery motion unless otherwise ordered upon good cause shown.**

19 (Emphasis added); *See Sequoia Prop. & Equip. Ltd. P'ship v. United States*, 203 F.R.D. 447, 451
 20 (E.D. Cal. 2001) (denying motion to compel document production because movant failed to
 21 satisfy obligations under Eastern District of California Local Rule 37-251); *Tuggle v. Kamara*,
 22 No. C 05-4142, 2007 U.S. Dist. LEXIS 21934, *12 (N.D. Cal. Mar. 8, 2007) (denying motion to
 23 compel document production because movant failed to satisfy obligations under Northern District
 24 of California Local Rule 37-1); *Crossbow Tech., Inc. v. YH Tech.*, No. C-03-04360, 2007 U.S.
 25 Dist. LEXIS 25926, *2 (N.D. Cal. Mar. 26, 2007) (same).

26 Here, Nanya's Motion clearly violates Rule 37.1 by failing to be in the form of a
 27 stipulation setting out each disputed issue, and Nanya offers no explanation as to why the Rule
 28 was ignored. Nanya had ample opportunity to formulate such a stipulation. In fact, as noted
 above, during the meet and confer on April 12, 2007 FMA's counsel repeatedly asked Nanya's
 counsel to focus on specific requests or categories in the Freeman Letter where documents had
 allegedly not been produced. Rather than conducting such a focused analysis of the dispute, as

1 required by Rule 37.1, Nanya's counsel preferred to speak in generalities and complain about
 2 certain documents that allegedly should have been produced. There is no excuse for Nanya's
 3 failure to follow the Rules. *See Sequoia Prop. & Equip. Ltd. P'ship*, 203 F.R.D. at 451 (denying
 4 movant's motion to compel production of documents because movant failed to file joint
 5 stipulation).

6 Furthermore, Nanya's failure to follow Rule 37.1 is particularly inexcusable as
 7 Defendants have specifically raised Plaintiffs' prior violations of this Rule in opposing Nanya's
 8 previous motions to compel. (*See, e.g.*, Dkt. No. 160 at 3-4). Apparently Nanya believes it need
 9 not follow – or even acknowledge and ask for leave to depart from – the Court's Rules. *See*
 10 *Afshar v. City of Sacramento*, Civ. S-04-1088, 2007 U.S. Dist. LEXIS 6563, *7 (N.D. Cal. Jan.
 11 16, 2007) (“[F]ailure to comply with the [meet and confer obligation] will result in an imposition
 12 of sanctions.”).

13 Plaintiffs' violation of Rule 37.1 is prejudicial to Defendants and to the Court. By failing
 14 to provide a joint stipulation on the motion to compel, Plaintiffs are avoiding their obligation to
 15 specify the exact documents and document requests for which they are seeking Court relief. *See*
 16 L.R. 37.1(b); *Hunziker v. Adams*, 2007 U.S. Dist. LEXIS 22632 (E.D. Cal. 2007) (denying
 17 motion in part because movant failed to identify specific requests for discovery of documents at
 18 issue); *Crossbow Tech.*, 2007 U.S. Dist. LEXIS 25926, at *4-*5 (requiring that plaintiff identify
 19 in its motion to compel the specific requests at issue and its basis for entitlement to responses to
 20 each individual request). Instead, the Motion is merely a few strung together “examples” of the
 21 supposed “deficiencies” in FMA's production. Each of these alleged deficiencies are addressed
 22 below. Incredibly, none of these examples were ever discussed with FMA's counsel.

23 Accordingly, because of Nanya's complete failure to abide by the Local Rules, the
 24 present Motion should be denied.

25 **IV. NANYA'S SPECIFIC COMPLAINTS ABOUT FMA'S DOCUMENT 26 PRODUCTION ARE ENTIRELY WITHOUT MERIT**

27 Nanya's Motion includes a series of complaints about alleged deficiencies in
 28 FMA's production. Unfortunately, as noted above, Nanya raised these issues with the Court

1 without first raising them with FMA. Had Nanya raised these issues first with FMA, they would
2 have received the following explanation.

3 **A. FMA's Production of Allegedly Irrelevant Documents**

4 Nanya complains that "most of" the 34,000 documents produced by FMA "do not
5 reference the specific part numbers Plaintiffs' identified." (Motion at 5.) Nanya apparently
6 forgets that its First Set of document requests included *no specific part numbers whatsoever*. (See
7 Motion, Exh. A-1, at 2-3.) Rather, Nanya defined the relevant products in the First Set as being
8 "dynamic memory chips". (*Id.*) Thus, having plainly not limited its document requests to these
9 specific part numbers, Nanya should not be surprised when it receives documents that are not so
10 limited.

11 **B. FMA's Alleged Failure to Address the Majority of Accused Parts**

12 Nanya complains that FMA's documents "fail to cover the majority of the model
13 numbers Plaintiffs defined in their discovery requests." Nanya similarly complains that FMA has
14 "failed to provide all sales reports of all the accused devices" and that "[t]his arbitrary selection
15 violates the agreement between the parties." These complaints are directed at the 67 separate part
16 numbers identified as the Accused Devices in Nanya's Second Set of discovery requests. (See
17 Motion, Exh. A-2, at 4.) As noted above, Nanya's First Set identified no specific part numbers.

18 Nanya is correct that the various sales reports and other documents produced by
19 FMA fail to address the majority of the 67 part numbers listed in the Second Set. This is because
20 FMA has never sold a majority of the identified part numbers. Specifically, out of the 67 part
21 numbers listed by Nanya, FMA has sold exactly 13 of those parts. Thus, it is not surprising that
22 the produced documents do not cover a "majority" of the model numbers identified in the second
23 set.

24 This is yet another item that could have been easily clarified for Nanya had they
25 bothered to ask about it.

1 **C. FMA's Alleged Failure to Produce "Design Wins"**

2 Nanya complains that FMA has not produced sufficient information concerning
3 "design wins." (Motion at 6.) Although the term "design win" is undefined in Nanya's document
4 requests, FMA generally understands it to be the award of a competitive contract. The "design
5 win" itself is the document, if there is one, that announces the award or otherwise informs FMA
6 of the award. Of course, customers will sometimes deliver such good news in person or over the
7 telephone and there may be no "design win" document.

8 Nanya complains that "[a]lthough FMA produced what appears to be a
9 presentation of FMA's design wins for its products for one or two years, FMA failed to provide
10 all of the actual contracts, communications, notes, technical specifications and terms of agreement
11 regarding each of those design wins from 1999 to 2004". (Motion at 6.) Nanya further states that
12 "[s]uch an incomplete and self-selected production ignores Plaintiffs' discovery requests seeking
13 all responsive documents related to FMA's design wins for its products." (*Id.*)

14 First, FMA did a reasonable search for design win documents for all of the accused
15 devices and produced those documents. FMA began centrally collecting design win documents
16 only two years ago because at this time design wins began to be a factor affecting employee
17 bonuses. Before 2005, design win documents were not collected and there was no policy to retain
18 them. Thus, it is not surprising that most of the design win documents found were from the last
19 two years. We note, of course, that any design win would result in a sale and Nanya has been
20 given a complete listing of literally every sale for every accused device, including the customer
21 name, quantity and price for each sale. Thus, Nanya has customer and sales information on all
22 design wins, even if the communication announcing the design win could not be located.

23 Second, by agreement of the parties FMA had no obligation at all to produce "all
24 of the actual contracts, communications, notes, technical specifications and terms of agreement
25 regarding each of those design wins from 1999 to 2004" as Nanya alleges in its Motion. (*Id.*)
26 The Freeman Letter, discussed above, sets forth precisely what documents FMA was to collect in
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1 response to the Second Set of discovery requests.¹ The categories in the Freeman Letter
2 regarding design wins state that FMA will produce “documents sufficient to identify all design
3 wins” for various products. (See Exh. B at 1-2.) Another category in the Freeman Letter
4 specifies that FMA will produce “all contracts” but allows “summaries of such documents” if it is
5 burdensome to produce all contracts. (*Id.*) In response to these categories, FMA searched for and
6 produced design win documents and contracts. Further, as noted above, FMA produced complete
7 sales reports, which are “summaries” of the contracts as the reports include the specific product,
8 customer name, volume and price.

9 None of the categories in the Freeman Letter address “communications, notes,
10 technical specifications and terms of agreement.” (*Id.*) During the meet and confer on March 21,
11 2007, FMA had specifically complained about collecting such documents. For example, “all
12 communications” regarding the accused devices is an extremely broad request and would easily
13 encompass enormous amounts of e-mails and other communications between FMA and its
14 customers and within FMA. Nanya agreed that such documents did not have to be produced at
15 that time, as evidenced by the Freeman Letter. Thus, Nanya cannot reasonably complain that
16 FMA has not produced documents that Nanya agreed did not need to be produced.

17 **D. FMA’s Alleged Failure to Produce SPARC or SPARClite Documents**

18 Nanya complains that a “glaring example is FMA’s failure to produce any
19 documents regarding the SPARC or SPARClite series of camera processors.” (Motion at 6.)
20 This allegation is simply not true. Nanya identified 7 part numbers in this category and FMA had
21 sales for two of those parts and for two other related parts. (See Motion, Exh. A-2, at 4.) FMA
22 produced a report from its database for all four of these parts identifying precisely the quantities
23 of the parts sold, the price and the customer names. The bates numbers for these reports are FMA
24 0021732-35.

27 ¹ FMA notes that Nanya’s First Set of discovery requests does not mention design wins
28 and is thus irrelevant to this issue.

E. FMA's Alleged Production of Documents that Do Not Address the Categories in the Freeman Letter

Nanya seems to admit on pages 6-8 of its Motion that the categories set forth in the Freeman Letter represent the agreement between the parties concerning the Second Set of document requests. But Nanya complains that "[o]nly a fraction of the documents FMA produced directly address the requests" contained in the Freeman Letter. (Motion at 8.) However, like another of Nanya's complaints addressed above, Nanya forgets that the Freeman Letter addressed only the Second Set of document requests and not the First Set. In fact, FMA had already produced a large volume of documents before the Freeman Letter was even written. Thus, it is not at all surprising that the produced documents include many documents that are not directly related to the Freeman Letter.

F. The Blank Pages and Missing Attachments

Nanya complains that FMA's production is "full of" blank pages and missing attachments. This is not true, although there are a small number of blank pages in the production. FMA's counsel uses a common document production software tool known as JFS Litigator's Notebook that facilitates the review and production of large amounts of documents, including electronic documents such as Word documents, e-mails and spreadsheets. These documents are reviewed in a database before production and the attorney conducting the review indicates to the system whether the document should be produced and its appropriate confidentiality designation, if any. The JFS program then "TIFFs" the document (*i.e.*, converts it from its original format to a TIFF image), adding bates numbers and the appropriate confidentiality designation. Such systems create TIFFs because a TIFF image is fixed, similar to a paper document, thus allowing the application of the suitable stamps to every page.² When certain documents, particularly spreadsheets and e-mails, are converted into TIFF images, it is common for some blank pages to be created. For example, a large spreadsheet might TIFF into many pages and if the original spreadsheet had sections with no data then those sections would generate blank TIFF pages.

² We note that Nanya is similarly producing its documents as TIFF images.

1 Similarly, e-mails will occasionally have blank sections that will get converted into a blank TIFF
2 page. This is a common result in document productions involving electronic records.

3 We have investigated each of the examples Nanya cites of blank pages, with the
4 following results:

5 FMA 0022005-0022007: this document was part of an e-mail attached as
6 a .txt file that did not TIFF properly. We have recently produced a better
7 copy of this document.

8 FMA 0024781-0024783: this is an email wherein there is a blank last
9 page.

10 FMA 0024941-0024949: this is an email wherein there is a blank last
11 page.

12 FMA 0025040-0025041: these are microscope photographs that did not
13 show up clearly in the black and white TIFF images. We have recently
14 produced a better copy of this document.

15 FMA 0031226-0031233: this is an email wherein there is a blank last
16 page.

17 FMA 0031875-0031879: this is a Word document with Japanese
18 characters that did not TIFF properly. We have recently produced a better
19 copy of this document.

20 FMA 0032156-0032157: this is an email with Japanese characters that did
21 not TIFF properly. We have recently produced a better copy of this
22 document.

23 FMA 0023308-0032309: this is an email wherein there is a blank last page.

24 We have also investigated each of the examples Nanya cites of missing
25 attachments with the following results:

26 FMA 0024380-24381: the attachment to this document is not a data file.
27 Rather it is a software file and will be produced to Nanya upon request.

28 FMA 0024876-24878: this document identifies two attachments and both
have been previously produced at FMA 0024879-24882 and FMA
0024883.

1 FMA 0032195-32196: this document identifies two attachments and both
2 have been previously produced at FMA 0007420-7244 and FMA 007445-
3 7498.

4 FMA 0032269-32276: this document identifies an Excel spreadsheet
5 attachment that was previously produced at FMA 0025208.

6 FMA 0032644-322645: this document identifies an Excel spreadsheet
7 attachment that was previously produced at FMA 0009051-9053.

8 FMA 0032679-322681: this document identifies an Excel spreadsheet
9 attachment that was previously produced at FMA 0027717.

10 FMA 0032682-322685: this document identifies an Excel spreadsheet
11 attachment that was previously produced at FMA 0027718-27122.

12 FMA 0032743-32744: this document identifies an attachment that was
13 previously produced at FMA 0028102-28103.

14 FMA 0032867-32869: this document identifies an Excel spreadsheet
15 attachment that was previously produced at FMA 0028343.

16 FMA 0032892-32897: this document identifies an attachment that was
17 previously produced at FMA 0032898-32902.

18 Thus, all but one of the alleged missing attachments have actually been produced.
19 The one that was not produced is a computer file that cannot be read like a text file. If Nanya
20 wants to examine the software in this computer file attachment, it will be made available for
21 inspection.

22 It is, of course, common to have minor problems when producing large volumes of
23 information, particularly when electronic data is involved. Had Nanya asked us about these
24 issues we could have easily explained as above. Instead, Nanya unnecessarily and unfortunately
25 chose to burden the Court with these issues. Nanya's complaints are thus easily refuted and do
26 not support the relief that they seek.
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1 **V. CONCLUSION**

2 Nanya's Motion should be denied for numerous reasons. First, Nanya has
 3 repeatedly failed to follow the local rules in bringing these motions to compel. Local Rule 37.1 is
 4 important and provides clarity to exactly what relief is being sought. Without the required
 5 stipulation, FMA has no way of knowing the specific requests that have allegedly not been
 6 satisfied. The "examples" of FMA's failure to produce documents have all been easily refuted
 7 above. Nanya, of course, should have raised these specific complaints with FMA, thus relieving
 8 the Court of the burden of addressing such minutia, and potentially avoiding this motion
 9 altogether.

10 Nanya's tactics are clear. As its deadline approaches for response to FMA's
 11 motion to dismiss and transfer, it has utterly failed to find evidence of the alleged "stream of
 12 commerce" that forms the basis for its theory of jurisdiction over FMA. This is true in spite of
 13 FMA's good faith production of tens of thousands of documents, and numerous third party
 14 subpoenas served by Nanya. Nanya seeks excuses for its failure to find evidence to support its
 15 theories. Ironically, Nanya accuses FMA of seeking to "delay this action" (Motion at 4) when the
 16 opposite is plainly true. Nanya will undoubtedly use the alleged discovery deficiencies to seek a
 17 delay in the briefing schedule and hearing on FMA's motion. These tactics should not be
 18 tolerated.

19 Accordingly, for these reasons and all the reasons stated herein, FMA respectfully
 20 requests that this Motion be denied.

21 Respectfully submitted this 20th day of April, 2007.

22 **CALVO & CLARK, LLP**
 23 **MILBANK, TWEED, HADLEY**
 24 **& MCCLOY LLP**

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 26 *Fujitsu Limited and*
 27 *Fujitsu Microelectronics America, Inc.*

28 By: 

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EXHIBIT A

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

FUJITSU LIMITED, a Japanese corporation, and
FUJITSU MICROELECTRONICS AMERICA,
INC., a California corporation,

Plaintiffs,

v.

NANYA TECHNOLOGY CORP., a Taiwanese
corporation, and
NANYA TECHNOLOGY CORP. U.S.A., a
California corporation,

Defendants.

CASE NO. 4:06-cv-06613 (CW)

**FMA'S RESPONSES AND
OBJECTIONS TO DEFENDANTS'
SECOND SET OF JURISDICTIONAL
REQUESTS FOR PRODUCTION**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff Fujitsu Microelectronics America, Inc. ("FMA") hereby objects and responds to Defendants' Nanya Technology Corp. and Nanya Technology Corp. U.S.A. Second Set of Jurisdictional Requests For Production To Plaintiff Fujitsu Microelectronics America, Inc. ("Requests").

PRELIMINARY OBJECTION

These responses are without waiver of any and all objections to the Requests as the responses are based on the best information currently available to FMA. FMA reserves all objections, in this or any other proceeding, with respect to the relevance, materiality, and admissibility of information produced pursuant to the Requests for Production. FMA also reserves the right to assert additional objections should further review of the files or pre-trial preparation develop new information as to any of the Requests for Production. These responses are made without waiver of, or prejudice to, any such objection or right. To the extent FMA responds to Requests for Production to which it also objects, such responses are without waiver of any such objections.

GENERAL OBJECTIONS

These General Objections are incorporated into each response set forth herein.

1. FMA objects to each of the Requests, including all definitions and instructions, to the extent they seek to impose requirements on FMA that are inconsistent with or in addition to the provisions of the Federal Rules of Civil Procedure, or impose obligations beyond the local rules of the United States District Court for the Northern District of California.

1 2. FMA's responses and objections are made to the best of its present knowledge,
2 information, and belief. FMA has not completed its investigation and discovery in this matter;
3 therefore, FMA reserves the right to amend, revise, correct, supplement, or clarify any of the
4 responses and objections herein pursuant to facts or information gathered at any time subsequent
5 to the date of these responses. FMA further reserves the right to make use of, or to introduce at
6 hearing and at trial, documents and things responsive to the Requests discovered subsequent to
7 the date of FMA's production.

8 3. FMA objects to the Requests, including all definitions and instructions, to the
9 extent that they seek the disclosure of information protected from discovery by the attorney-client
10 privilege, the work product doctrine, common interest privilege, joint prosecution privilege, the
11 trade secret or proprietary information privilege, or any other applicable privilege or immunity, or
12 invade the privacy rights of any person. FMA will not knowingly disclose any information that is
13 subject to such privilege or protection. In connection with the Requests, FMA does not intend to
14 waive, and shall not be construed as having waived, any such privilege or protection. Any
15 inadvertent production or disclosure thereof shall not be deemed a waiver of any such privilege or
16 protection in whole or in part. FMA reserves its rights to recall any such document.

17 4. FMA objects to the Requests to the extent they call for the production of
18 information for which disclosure is prohibited by any domestic or judicial order, protective order,
19 stipulation of confidentiality, non-disclosure agreement, or confidentiality agreement with any
20 non-party restricting the disclosure of such information by FMA. FMA does not intend to
21 produce any documents that are subject to any protection or privilege.

1 11. FMA objects to the Requests to the extent they are ambiguous or would require
2 FMA to speculate as to the nature or scope of the information sought thereby.

3 12. FMA objects to the Requests to the extent they fail to specify a reasonable or
4 relevant time period for the information and/or documents sought. Subject to agreement of all
5 parties, FMA will not produce documents generated after the date of the Complaint in this action.

6 13. FMA objects to the Requests to the extent they seek information that is neither
7 relevant to the subject matter involved in this action, nor relevant to a claim or defense of any
8 party, nor reasonably calculated to lead to the discovery of admissible evidence. FMA reserves
9 all objections, in this or any other proceeding, with respect to the relevance, materiality, and
10 admissibility of documents or things produced pursuant to the Requests and the contents of such
11 documents.

12 14. FMA objects to the Requests to the extent they seek information that is subject to
13 confidentiality obligations with any non-party restricting the disclosure of such information by
14 FMA.

15 15. FMA objects to the Requests to the extent they seek information in the custody,
16 possession or control of persons or entities other than FMA. FMA will not provide any
17 information in the possession, custody or control of any third party, including any agent, outside
18 attorney, subsidiary or affiliate of FMA on the grounds that production of such documents is
19 unduly burdensome and not calculated to lead to the discovery of admissible evidence.

20 16. FMA objects to the Requests to the extent they seek production of documents that
21 are already in Defendants' possession, custody or control, that are publicly available, that are
22 equally available to Defendants or from other parties to the litigation, or that are duplicative of
23 documents already produced in the litigation.

1 has been objected to, in whole or in part, is not intended to be a waiver of the objection. By
2 making these objections and responses, FMA does not concede that it is in possession of any
3 information or documents responsive to the Requests or that any documents or information
4 requested or provided is relevant to this litigation.

5 23. To the extent that FMA does not object to a Request and agrees to produce
6 documents in response to a Request, that agreement is not a representation that any such
7 documents actually exist, only that if such documents exist, then FMA will produce them.

8 24. FMA objects to these Requests to the extent that they call for the production of
9 documents relating to ACCUSED DEVICES when no claims had been made and no products had
10 been accused at the time of serving these Requests.

11 25. Each of the foregoing General Objections is hereby incorporated by reference into
12 each of the following specific responses to Propounding Party's specific Requests.

13
14 **SPECIFIC RESPONSES AND OBJECTIONS TO REQUESTS FOR PRODUCTION**

15 Without waiving and subject to its General Objections, which are incorporated into
16 each response below, FMA responds to each specific Request as follows:

17 **REQUEST NO. 1:** All documents listing any manufacturer or customer that has purchased a
18 Fujitsu ACCUSED DEVICE or similar device made by Fujitsu or bearing a Fujitsu trademark for
19 use or incorporation in any manufacturer's or customer's products from 1999 to the present.

20 **RESPONSE TO REQUEST NO. 1:** In addition to its General Objections, FMA objects to
21 the request on the following grounds: (a) it seeks information that is neither relevant to this action
22 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and
23 unduly burdensome such as calling for the production of "all" documents "listing any

1 manufacturer or customer”; (c) it is vague and ambiguous, in particular as to what constitutes a
2 “similar device”; and (d) it calls for information not within the possession or control of FMA.

3 Subject to the foregoing General Objections and specific objections, FMA will produce
4 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
5 reasonable search.

6
7 **REQUEST NO. 2:** All documents listing any product made by Fujitsu or other manufacturer or
8 customer that has used or incorporated a Fujitsu ACCUSED DEVICE or similar device made by
Fujitsu or other manufacturer or customer from 1999 to the present.

9 **RESPONSE TO REQUEST NO. 2:** In addition to its General Objections, FMA objects to
10 the request on the following grounds: (a) it seeks information that is neither relevant to this action
11 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and
12 unduly burdensome such as calling for the production of “all” documents “listing any product”;
13 (c) it is vague and ambiguous, in particular as to what constitutes “used or incorporated” and what
14 constitutes “similar device”; and (d) it calls for information not within the possession or control of
15 FMA.

16 Subject to the foregoing General Objections and specific objections, FMA will produce
17 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
18 reasonable search.

19
20 **REQUEST NO. 3:** All documents listing any contract entered into within the last six years
21 between PLAINTIFF and any manufacturer or customer involving a Fujitsu ACCUSED DEVICE
or similar device made by Fujitsu or other manufacturer or customer.

22 **RESPONSE TO REQUEST NO. 3:** In addition to its General Objections, FMA objects to
23 the request on the following grounds: (a) it seeks information that is neither relevant to this action

1 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks confidential
2 and/or proprietary information not reasonably calculated to lead to the discovery of admissible
3 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all"
4 documents "listing any contract"; and (d) it is vague and ambiguous, in particular as to the
5 meaning of what constitutes "similar device" and the identities of "any manufacturer[s] or
6 customer[s]" and "other manufacturer[s] or customer[s].

7 Subject to the foregoing General Objections and specific objections, FMA will produce
8 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
9 reasonable search.

10
11 **REQUEST NO. 4:** All documents listing any request made from 1999 to the present by any
12 manufacturer or customer for proposals from PLAINTIFF to develop, manufacture, distribute, or
13 otherwise produce products employing any Fujitsu ACCUSED DEVICE or similar device made
14 by Fujitsu or other manufacturer or customer.

15 **RESPONSE TO REQUEST NO. 4:** In addition to its General Objections, FMA objects to
16 the request on the following grounds: (a) it seeks information that is neither relevant to this action
17 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary
18 and/or confidential information not reasonably calculated to lead to the discovery of admissible
19 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all"
20 documents "listing any request... by any manufacturer or customer"; (d) it is vague and
21 ambiguous, in particular as to the meaning of what constitutes a "similar device" and the
22 identities of "other manufacturer[s] or customer[s]"; and (e) it calls for information not within the
23 possession or control of FMA.

24 Subject to the foregoing General Objections and specific objections, FMA will produce

1 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
2 reasonable search.

3
4 **REQUEST NO. 5:** All documents listing any proposal from 1999 to the present by PLAINTIFF
5 to develop, manufacture, distribute, or otherwise produce a Fujitsu ACCUSED DEVICE or
6 similar device for any manufacturer or customer.

7 **RESPONSE TO REQUEST NO. 5:** In addition to its General Objections, FMA objects to
8 the request on the following grounds: (a) it seeks information that is neither relevant to this action
9 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary
10 and/or confidential information not reasonably calculated to lead to the discovery of admissible
11 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of “all”
12 documents “listing any proposal”; (d) it is vague and ambiguous, in particular as to the meaning
13 of what constitutes a “similar device” and the identities of “any manufacturer or customer”; and
14 (e) it calls for information not within the possession or control of FMA.

15 Subject to the foregoing General Objections and specific objections, FMA will produce
16 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
17 reasonable search.

18 **REQUEST NO. 6:** All documents showing any product made by Fujitsu or other manufacturer
19 or customer with embedded RAM, MEMS, WiMax or other ACCUSED DEVICE or similar
20 device made by Fujitsu or bearing a Fujitsu trademark.

21 **RESPONSE TO REQUEST NO. 6:** In addition to its General Objections, FMA objects to
22 the request on the following grounds: (a) it seeks information that is neither relevant to this action
23 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and
24 unduly burdensome such as calling for the production of “all” documents “showing any product”;
25 (c) it is vague and ambiguous, in particular as to the meaning of what constitutes a “similar
26

1 device” and the identities of “other manufacturer[s] or customer[s]”; and (d) it calls for
2 information not within the possession or control of FMA.

3 Subject to the foregoing General Objections and specific objections, FMA will produce
4 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
5 reasonable search.

6 **REQUEST NO. 7:** All documents showing any product made by Fujitsu or other manufacturer
7 using a Biometric sensor made by Fujitsu or bearing a Fujitsu trademark.

8 **RESPONSE TO REQUEST NO. 7:** In addition to its General Objections, FMA objects to
9 the request on the following grounds: (a) it seeks information that is neither relevant to this action
10 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and
11 unduly burdensome such as calling for the production of “all” documents “showing any product”;
12 (c) it is vague and ambiguous, in particular as to what constitutes “using”; and (d) it calls for
13 information not within the possession or control of FMA.

14 Subject to the foregoing General Objections and specific objections, FMA will produce
15 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
16 reasonable search.

17 **REQUEST NO. 8:** All documents showing any product using a MEMS device made by Fujitsu
18 or bearing a Fujitsu trademark.

19 **RESPONSE TO REQUEST NO. 8:** In addition to its General Objections, FMA objects to
20 the request on the following grounds: (a) it seeks information that is neither relevant to this action
21 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks confidential
22 and/or proprietary information not reasonably calculated to lead to the discovery of admissible
23 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of “all”

1 documents "showing any product"; and (d) it calls for information not within the possession or
2 control of FMA.

3 Subject to the foregoing General Objections and specific objections, FMA will produce
4 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
5 reasonable search.

6
7 **REQUEST NO. 9:** All documents showing contracts for sale of any MCUs, biometric sensors,
8 or MEMS devices.

9 **RESPONSE TO REQUEST NO. 9:** In addition to its General Objections, FMA objects to
10 the request on the following grounds: (a) it seeks information that is neither relevant to this action
11 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary
12 and/or confidential information not reasonably calculated to lead to the discovery of admissible
13 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all"
14 documents "showing contracts"; (d) it is vague and ambiguous, in particular as to what constitutes
15 "any MCUs, biometric sensors or MEMS devices"; and (e) it calls for information not within the
16 possession or control of FMA.

17 Subject to the foregoing General Objections and specific objections, FMA will produce
18 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
19 reasonable search.

20 **REQUEST NO. 10:** All documents showing any customers for Fujitsu MCUs, biometric sensors,
21 or MEMS devices.

22 **RESPONSE TO REQUEST NO. 10:** In addition to its General Objections, FMA objects to
23 the request on the following grounds: (a) it seeks information that is neither relevant to this action
24 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary

1 and/or confidential information not reasonably calculated to lead to the discovery of admissible
2 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all"
3 documents "showing any customers"; and (d) it calls for information not within the possession or
4 control of FMA.

5 Subject to the foregoing General Objections and specific objections, FMA will produce
6 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
7 reasonable search.

8
9 **REQUEST NO. 11:** All documents showing design wins for any Fujitsu MCU or ACCUSED
10 DEVICE or similar device in any blood glucose measuring device.

11 **RESPONSE TO REQUEST NO. 11:** In addition to its General Objections, FMA objects to
12 the request on the following grounds: (a) it seeks information that is neither relevant to this action
13 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and
14 unduly burdensome such as calling for the production of "all" documents "showing design wins";
15 (c) it is vague and ambiguous, in particular as to what constitutes a "similar device" and what
16 constitutes "any blood glucose measuring device"; and (d) it calls for information not within the
17 possession or control of FMA.

18 Subject to the foregoing General Objections and specific objections, FMA will produce
19 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
20 reasonable search.

21 **REQUEST NO. 12:** All documents showing design wins for any Fujitsu display controller
(whether accused or not) in any automobile.

22 **RESPONSE TO REQUEST NO. 12:** In addition to its General Objections, FMA objects to
23 the request on the following grounds: (a) it seeks information that is neither relevant to this action

1 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and
2 unduly burdensome such as calling for the production of “all” documents “showing design wins”;
3 (c) it is vague and ambiguous, in particular as to what constitutes “any FMA display controller
4 (whether accused or not)””; and (d) it calls for information not within the possession or control of
5 FMA.

6 Subject to the foregoing General Objections and specific objections, FMA will produce
7 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
8 reasonable search.

9
10 **REQUEST NO. 13:** All documents showing design wins for Fujitsu FlexRay controllers or
11 devices.

12 (a) All documents showing design wins for “MOST” controllers or devices.

(b) All documents showing design wins for “CAN” controllers or devices.

13 **RESPONSE TO REQUEST NO. 13:** In addition to its General Objections, FMA objects to
14 the request on the following grounds: (a) it seeks information that is neither relevant to this action
15 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks confidential
16 and/or proprietary information not reasonably calculated to lead to the discovery of admissible
17 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of “all”
18 documents “showing design wins”; and (d) it is vague and ambiguous, in particular as to the
19 meaning of what constitutes “design wins”.

20 Subject to the foregoing General Objections and specific objections, FMA will produce
21 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
22 reasonable search.

1 **REQUEST NO. 14:** All documents showing supply of any part from Fujitsu (including
2 subsidiaries) to any manufacturer or customer (including but not limited to automobile
manufacturers such as Honda, Hyundai, BMW and any affiliated companies).

3 **RESPONSE TO REQUEST NO. 14:** In addition to its General Objections, FMA objects to
4 the request on the following grounds: (a) it seeks information that is neither relevant to this action
5 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary
6 and/or confidential information not reasonably calculated to lead to the discovery of admissible
7 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all"
8 documents "showing supply of any part"; (d) it is vague and ambiguous, in particular as to the
9 identities of "any manufacturer or customer"; and (e) it calls for information not within the
10 possession or control of FMA.

11 Based on the foregoing specific objections, FMA will not produce documents responsive
12 to this request.

13 **REQUEST NO. 15:** All documents related to any Fujitsu device having embedded RAM.

14 **RESPONSE TO REQUEST NO. 15:** In addition to its General Objections, FMA objects to
15 the request on the following grounds: (a) it seeks information that is neither relevant to this action
16 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary
17 and/or confidential information not reasonably calculated to lead to the discovery of admissible
18 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all"
19 documents "related to any FMA device"; and (d) it calls for information not within the possession
20 or control of FMA.

21 Based on the foregoing specific objections, FMA will not produce documents responsive
22 to this request.

REQUEST NO. 16: All documents identifying any product that incorporates any one or more of the following parts or devices:

- (a) Fujitsu "FR" series of 32 bit RISC microcontrollers (including but not limited to part numbers MB91F133A, MB91191R/F191A, MB911912/F192, MB91101A, MB91107, MB91108, MB91121, MB91F127, MB91f128, MB91133, MB91F133, MB91154, MB91F154, MB91155, MB91F158, MB91F362GB, MB91F365GB, MB91F366GA/GB, MB91F367G/GB, MB91F368GB, MB91F369GA, MB91301, MB91305, MB91307B, MB91307R, MB91F312A, MB91F318A, MB91FV319A, MB91352A, MB91353A/F353A, MB91354A, MB91355A, MB91232L, MB91233L, MB91F233, MB91F233L, MB91263B, MB91F264B, MB91266, MB91F267, MB91F272, MB91F477, MB91F478, MB91401, MB91402, and MB91403);
- (b) Fujitsu "M-2" series, *a.k.a.* "Millennia-2 Mobile," "SPAC," and "SPARCLite," *a.k.a.* "MB8683X" series of camera processors (including but not limited to part numbers MB91188, MB9118A, MB91189, MB86831, MB86941, MB86942); and
- (c) Fujitsu "MB91360G" series of 32 bit RISC microcontrollers with CAN interface (including but not limited to part numbers MB91F362GAPFVS, MB91F362GA, MB91F365GB, MB91F366GB, MB91F367GB, MB91F368GB, and MB91F369GA).

RESPONSE TO REQUEST NO. 16: In addition to its General Objections, FMA objects to the request on the following grounds: (a) it seeks information that is neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and unduly burdensome such as calling for the production of "all" documents "identifying any product"; (c) it is vague and ambiguous, in particular as to what constitutes "incorporates"; and (d) it calls for information not within the possession or control of FMA.

Based on the foregoing specific objections, FMA will not produce documents responsive to this request.

1 **REQUEST NO. 17:** All documents concerning the design of and sales of any product, including
2 but not limited to digital cameras, that incorporates Fujitsu ACCUSED DEVICES or similar
3 devices made by Fujitsu or bearing a Fujitsu trademark.

4 **RESPONSE TO REQUEST NO. 17:** In addition to its General Objections, FMA objects to
5 the request on the following grounds: (a) it seeks information that is neither relevant to this action
6 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and
7 unduly burdensome such as calling for the production of "all" documents "concerning the design
8 of and sales of any product"; (c) it is vague and ambiguous, in particular as to what constitutes
9 "any product that incorporates" and what constitutes "similar devices"; and (d) it calls for
10 information not within the possession or control of FMA.

11 Based on the foregoing specific objections, FMA will not produce documents responsive
12 to this request.

13 **REQUEST NO. 18:** All communications between Fujitsu and any entity concerning the use of
14 any Fujitsu ACCUSED DEVICES or similar devices made by Fujitsu or bearing a Fujitsu
15 trademark used in any production including but not limited to digital cameras, from 1999 to the
16 present.

17 **RESPONSE TO REQUEST NO. 18:** In addition to its General Objections, FMA objects to
18 the request on the following grounds: (a) it seeks information that is neither relevant to this action
19 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks confidential
20 and/or proprietary information not reasonably calculated to lead to the discovery of admissible
21 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all
22 communications"; (d) it is vague and ambiguous, in particular as to the identities of "any entity"
23 and the meaning of what constitutes "similar devices"; and (e) it calls for information not within
24 the possession or control of FMA.

1 Based on the foregoing specific objections, FMA will not produce documents responsive
2 to this request.

3 **REQUEST NO. 19:** All documents showing sales of any product containing or employing
4 Fujitsu ACCUSED DEVICES in the United States, including specifically in the territory of
Guam.

5 **RESPONSE TO REQUEST NO. 19:** In addition to its General Objections, FMA objects to
6 the request on the following grounds: (a) it seeks information that is neither relevant to this action
7 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary
8 and/or confidential information not reasonably calculated to lead to the discovery of admissible
9 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all"
10 documents "showing sales of any product"; (d) it is vague and ambiguous, in particular as to the
11 meaning of what constitutes "containing or employing"; and (e) it calls for information not within
12 the possession or control of FMA.

13 Based on the foregoing specific objections, FMA will not produce documents responsive
14 to this request.

15
16 **REQUEST NO. 20:** All documents showing sales of any product made by Fujitsu or other
17 manufacturer containing or employing Fujitsu ACCUSED DEVICES or similar devices to the
Kmart Corporation.

18 **RESPONSE TO REQUEST NO. 20:** In addition to its General Objections, FMA objects to
19 the request on the following grounds: (a) it seeks information that is neither relevant to this action
20 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary
21 and/or confidential information not reasonably calculated to lead to the discovery of admissible
22 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all"
23 documents "showing sales of any product"; (d) it is vague and ambiguous, in particular as to the

1 meaning of what constitutes “containing or employing” and what constitutes “similar devices”;
2 and (e) it calls for information not within the possession or control of FMA.

3 Subject to the foregoing General Objections and specific objections, FMA will produce
4 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
5 reasonable search.

6 **REQUEST NO. 21:** All documents evidencing incorporation of Fujitsu ACCUSED DEVICES
7 or similar devices in any non-Fujitsu-branded or non-Fujitsu-trademarked product.

8 **RESPONSE TO REQUEST NO. 21:** In addition to its General Objections, FMA objects to
9 the request on the following grounds: (a) it seeks information that is neither relevant to this action
10 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and
11 unduly burdensome such as calling for the production of “all” documents “evidencing
12 incorporation”; (c) it is vague and ambiguous, in particular as to what constitutes “similar
13 devices” and what constitutes “non-Fujitsu branded or non-FMA trademarked product[s]; and (d)
14 it calls for information not within the possession or control of FMA.

15 Based on the foregoing specific objections, FMA will not produce documents responsive
16 to this request.

17 **REQUEST NO. 22:** All documents showing shipments, sales, or marketing of products made
18 by or bearing the Fujitsu trademark or trade name to Guam.

19 **RESPONSE TO REQUEST NO. 22:** In addition to its General Objections, FMA objects to
20 the request on the following grounds: (a) it seeks information that is neither relevant to this action
21 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and
22 unduly burdensome such as calling for the production of “all” documents “showing shipments,
23 sales or marketing of products”; (c) it is vague and ambiguous, in particular as to the identity

1 making products in the phrase “products made by” and (d) it calls for information not within the
2 possession or control of FMA.

3 Subject to the foregoing General Objections and specific objections, FMA will produce
4 relevant, non-privileged documents, if any, that are responsive to this request and susceptible to a
5 reasonable search.

6 **REQUEST NO. 23:** All documents showing sales of any ACCUSED DEVICES or similar
7 devices to cell phone makers.

8 **RESPONSE TO REQUEST NO. 23:** In addition to its General Objections, FMA objects to
9 the request on the following grounds: (a) it seeks information that is neither relevant to this action
10 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks confidential
11 and/or proprietary information not reasonably calculated to lead to the discovery of admissible
12 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of “all”
13 documents “showing sales”; and (d) it is vague and ambiguous, in particular as to the meaning of
14 what constitutes “similar devices” and the identities of “cell phone makers”; and (e) it calls for
15 information not within the possession or control of FMA.

16 Based on the foregoing specific objections, FMA will not produce documents responsive
17 to this request.

18 **REQUEST NO. 24:** All documents showing sales of any ACCUSED DEVICES or similar
19 devices to digital video recorder makers.

20 **RESPONSE TO REQUEST NO. 24:** In addition to its General Objections, FMA objects to
21 the request on the following grounds: (a) it seeks information that is neither relevant to this action
22 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary
23 and/or confidential information not reasonably calculated to lead to the discovery of admissible

evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all" documents "showing sales"; (d) it is vague and ambiguous, in particular as to the meaning of what constitutes "similar devices" and the identities "digital video recorder markers"; and (e) it calls for information not within the possession or control of FMA.

Based on the foregoing specific objections, FMA will not produce documents responsive to this request.

REQUEST NO. 25: All documents showing sales of any ACCUSED DEVICES or similar devices to digital video camera makers.

RESPONSE TO REQUEST NO. 25: In addition to its General Objections, FMA objects to the request on the following grounds: (a) it seeks information that is neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary and/or confidential information not reasonably calculated to lead to the discovery of admissible evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all" documents "showing sales"; and (d) it is vague and ambiguous, in particular as to the meaning of what constitutes "similar devices" and the identities "digital video camera markers"; and (e) it calls for information not within the possession or control of FMA.

Based on the foregoing specific objections, FMA will not produce documents responsive to this request.

REQUEST NO. 26: All documents showing sales of any ACCUSED DEVICES or similar devices to digital video disk player makers.

RESPONSE TO REQUEST NO. 26: In addition to its General Objections, FMA objects to the request on the following grounds: (a) it seeks information that is neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and

1 unduly burdensome such as calling for the production of “all” documents “showing sales”; (c) it
2 is vague and ambiguous, in particular as to what constitutes “similar devices” and the identities of
3 “digital video disk player makers”; and (d) it calls for information not within the possession or
4 control of FMA.

5 Based on the foregoing specific objections, FMA will not produce documents responsive
6 to this request.

7 **REQUEST NO. 27:** All documents showing sales of any ACCUSED DEVICES or similar
8 devices to set top box makers.

9 **RESPONSE TO REQUEST NO. 27:** In addition to its General Objections, FMA objects to
10 the request on the following grounds: (a) it seeks information that is neither relevant to this action
11 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and
12 unduly burdensome such as calling for the production of “all” documents “showing sales”; (c) it
13 is vague and ambiguous, in particular as to what constitutes “similar devices” and the identities of
14 “set top box makers”; and (d) it calls for information not within the possession or control of
15 FMA.

16 Based on the foregoing specific objections, FMA will not produce documents responsive
17 to this request.

18 **REQUEST NO. 28:** All documents showing sales of any ACCUSED DEVICES or similar
19 devices to printer makers.

20 **RESPONSE TO REQUEST NO. 28:** In addition to its General Objections, FMA objects to
21 the request on the following grounds: (a) it seeks information that is neither relevant to this action
22 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks confidential
23 and/or proprietary information not reasonably calculated to lead to the discovery of admissible

1 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of “all”
2 documents “showing sales”; and (d) it is vague and ambiguous, in particular as to the meaning of
3 what constitutes “similar devices” and the identities of “printer markers”; and (e) it calls for
4 information not within the possession or control of FMA.

5 Based on the foregoing specific objections, FMA will not produce documents responsive
6 to this request.

7 **REQUEST NO. 29:** All documents showing sales of any ACCUSED DEVICES or similar
8 devices to network enabled device makers.

9 **RESPONSE TO REQUEST NO. 29:** In addition to its General Objections, FMA objects to
10 the request on the following grounds: (a) it seeks information that is neither relevant to this action
11 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary
12 and/or confidential information not reasonably calculated to lead to the discovery of admissible
13 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of “all”
14 documents “showing sales”; (d) it is vague and ambiguous, in particular as to what constitutes
15 “similar devices” and the identities of “network enabled device makers”; and (e) it calls for
16 information not within the possession or control of FMA.

17 Based on the foregoing specific objections, FMA will not produce documents responsive
18 to this request.

19 **REQUEST NO. 30:** All documents showing sales of any ACCUSED DEVICES or similar
20 devices to makers of in-circuit emulators or development kits.

21 **RESPONSE TO REQUEST NO. 30:** In addition to its General Objections, FMA objects to
22 the request on the following grounds: (a) it seeks information that is neither relevant to this action
23 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary

1 and/or confidential information not reasonably calculated to lead to the discovery of admissible
2 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all"
3 documents "showing sales"; and (d) it is vague and ambiguous, in particular as to what
4 constitutes "similar devices" and the identities of "makers of in-circuit emulators or development
5 kits"; and (e) it calls for information not within the possession or control of FMA.

6 Based on the foregoing specific objections, FMA will not produce documents responsive
7 to this request.

8 **REQUEST NO. 31:** All documents showing sales of any ACCUSED DEVICES or similar
9 devices to digital camera makers.

10 **RESPONSE TO REQUEST NO. 31:** In addition to its General Objections, FMA objects to
11 the request on the following grounds: (a) it seeks information that is neither relevant to this action
12 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and
13 unduly burdensome such as calling for the production of "all" documents "showing sales"; (c) it
14 is vague and ambiguous, in particular as to what constitutes "similar devices" and the identities of
15 "digital camera makers"; and (d) it calls for information not within the possession or control of
16 FMA.

17 Based on the foregoing specific objections, FMA will not produce documents responsive
18 to this request.

19 **REQUEST NO. 32:** All documents showing sales of any ACCUSED DEVICES or similar
20 devices to any other manufacturer or customer not listed or identified in the preceding requests.

21 **RESPONSE TO REQUEST NO. 32:** In addition to its General Objections, FMA objects to
22 the request on the following grounds: (a) it seeks information that is neither relevant to this action
23 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it is overbroad and

1 unduly burdensome such as calling for the production of "all" documents "showing sales"; (c) it
2 is vague and ambiguous, in particular as to what constitutes "similar devices" and the identities of
3 "any other manufacturer[s] or customer[s]"; and (d) it calls for information not within the
4 possession or control of FMA.

5 Based on the foregoing specific objections, FMA will not produce documents responsive
6 to this request.

7 **REQUEST NO. 33:** All documents covering the "SPARC" and "SPARClite" series of
8 processors.

9 **RESPONSE TO REQUEST NO. 33:** In addition to its General Objections, FMA objects to
10 the request on the following grounds: (a) it seeks information that is neither relevant to this action
11 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks confidential
12 and/or proprietary information not reasonably calculated to lead to the discovery of admissible
13 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all"
14 documents "covering"; and (d) it is vague and ambiguous, in particular as to what constitutes a
15 "covering"; and (e) it calls for information not within the possession or control of FMA.

16 Based on the foregoing specific objections, FMA will not produce documents responsive
17 to this request.

1 **REQUEST NO. 34:** All documents concerning any product (including but not limited to digital
2 cameras and including but not limited to the following models of digital cameras: Canon (D30,
3 D60, IOD, 20D), Canon (1D, 1Ds Mark II), Canon Powershot (Sxxx, Axxx); Nikon D-SLRs
4 (D2X, D2H, D100, D70), Nikon Coolpix series and Sigma/Foveon (SD10, SD20)) made by
5 Fujitsu or other manufacturer or customer that has used or incorporated a Fujitsu ACCUSED
6 DEVICE (including but not limited to the "SPARC," "SPARClike" and other Fujitsu-related and
7 Fujitsu-branded series of camera processors) or similar device made by Fujitsu or other
8 manufacturer or customer from 1999 to the present.

9 **RESPONSE TO REQUEST NO. 34:** In addition to its General Objections, FMA objects to
10 the request on the following grounds: (a) it seeks information that is neither relevant to this action
11 nor reasonably calculated to lead to the discovery of admissible evidence; (b) it seeks proprietary
12 and/or confidential information not reasonably calculated to lead to the discovery of admissible
13 evidence; (c) it is overbroad and unduly burdensome such as calling for the production of "all"
14 documents "concerning any product"; (d) it is vague and ambiguous, in particular as to the
15 identities of "other manufacturer[s] or customer[s]" and the meaning of what constitutes "used or
16 incorporated" and what constitutes a "similar device"; and (e) it calls for information not within
17 the possession or control of FMA.

18
19 Based on the foregoing specific objections, FMA will not produce documents responsive
20 to this request.
21
22
23

1 Dated: March 14, 2007

2
3 By:



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document, FMA'S
RESPONSES AND OBJECTIONS TO DEFENDANTS' SECOND SET OF JURISDICTIONAL
REQUESTS FOR PRODUCTION, was caused to be served on the following counsel of record
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